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The Constitution of the Moldavian Parliament Structural and Functional Evolution

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Abstract: In Moldova, as in other former Soviet Republics, the Parliament is a creation of social practice, a result of the dissolution of the Soviet Union. Based on these beliefs, we can agree that the need for such research is justified. Parliamentarism as a form of government and political influence in studies of both historical and contemporary points of view is a subject of this presentation. From this point of view, in the modern world, we are increasingly seeing a persistent manifestation of democratic functioning and organization of power, based on the fundamental principles of law. The Constitution of the Republic of Moldova is that country's supreme law.

Keywords: sovereignty; independence; Parliamentary Republic; unicameral Parliament; elections

In the late 1980s, the liberalization of USSR led to the emergence of long-repressed nationalist movements and ethnic disputes within the diverse republics of the Soviet Union. Along with several other Soviet republics, Moldova started to move towards independence.

Republic of Moldova is a unitary parliamentary representative democratic republic. The country's supreme central legislative body is the unicameral Moldovan Parliament, which is rather young, dating from 1990, as the first democratic elections for the local parliament were held in 1990. The Parliament adopted the Declaration of Sovereignty of the "Soviet Socialist Republic Moldova", which, among other things, stipulated the supremacy of Moldovan laws over those of the Soviet Union. In 1991, the Moldovan parliament changed the name of the republic from "Moldavian SSR" to "Republic of Moldova". Moldova then seceded from the USSR and became a sovereign, independent state. Although the young Moldovan Parliament experienced some crisis moments, it is considered to achieve success in establishing the legislative basis of the newly formed state. In general, we should note that there is a trend that actually reflects a series of states that have entered at the path of democratic development and definition of the state of law.

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The events that took place in the Moldavian SSR in 1987-1990, influenced pluripartidisme, gave birth to civil society, divided state powers, and established the state of law (Cârnaț, 2010, pp. 35-36). Thus, studying Address: Piața Independenței 1, Cahul MD-3909, Moldova, Tel.:+373 299 28 993, Corresponding author: the Legislative activity during the constitutional crisis period of 1990-1994 is actual. The subject was analysed in studies and monographies by M. Rotaru, A. Moraru, V. Juc, C. Solomon, M. Platon, Gh. Cojocaru, I. Certan, P. Sandulachi, V. Darie, and others. We'll try to analyse in this paper the premises of basis law elaboration that contributed to overpass the constitutional crisis in the Republic of Moldova. Fundamental researchers regarding the organization of the state powers were made within the Moldovan and Romanian borders by T. Drăganu, I. Deleanu, Gh. Iancu, C. Ionescu, I. Muraru, E. S. Tănăsescu, I. Rusu, G. Vrabie, A. Arseni, I. Guceac, T. Cârnaț, V. Popa.

1. The Origin and Historical Evolution of Parliamentarism

The term *Parliament*, in its actual meaning, appears to be of British origin, although the roots are in French, *parler* (to speak). The Normans introduced the term into English, being used today as *parley* (discuss, treatise, debate).

Thus, Parliament is an institution where people only speak. Because of the fact that the Head of State gradually has lost one's legislative duty, the term *Parliament* got the meaning of the two chambers: the House of Commons and the House of Lords. It is considered that only together the representatives of aristocracy and the mass councilors can be constitutive elements of the notion of *Parliament* (Drăganu, 1998, p. 81; Pușcă, 2001, p. 106).

Regarding the origins of the Parliament as an institution, some consider it to be "unfair from the historical point of view to consider Great Britain as the mother of the Parliament, as Island has former rights, and Poland is in the same posture as Island" (Muraru, Tănăsescu, 2009, p. 151).

There is no doubt we can declare that the Parliament coming into being as a fundamental judicial institution in an organized state society on the basis of representation principle, was, actually, a normal reaction of the bourgeois against the absolute monarchy authorities, specific for the medieval feudalism (Pușcă, 2001, p. 106).

However, it is true that parliamentarism evolved in Great Britain. Along with the Norman conquest was born the so-called "Curia minor" (representing the royalty), and "Curia major" (a kind of Royal Council, with subjects and direct vassals of the king as members, according to a feudal contract). Though, in 1215, the Magna Carta (Latin for Great Charter), also called Magna Carta Libertatum or The Great Charter of the Liberties of England was signed. Magna Carta was the first

document forced onto a King of England by a group of his subjects, the feudal barons, in an attempt to limit his powers by law and protect their privileges.

2. Constitution and Activity of the Moldovan Parliament (1990-1994)

Following decades of totalitarianism in the USSR, the year of 1985 starts off the restructuring process regarding political, economical and social issues. Almost all the republics in the Union tended to go on independently, mass frustration grew on, emancipation movements spread more and more. Inevitably, the reorganization led to major impacts on the Moldavian Soviet Socialist Republic, where the major change emerged in 1990, along with the first democratic elections of the Parliament (Muraru, Tănăsescu, 2009, p. 157).

Deputies' elections for the Supreme Soviet of the republic were held in 1990; campaign was organized in two rounds, on February 25 and on March 10. This gave the green light to designate 377 deputies (although legislation permitted for 380 at that moment), some mandates were invalidated because of breaching legislation in voting sections. 315 of them were members of the Communist Party of the Soviet Union, other 19 were komsomolists, and the rest were not party members (Cârnaț, 2010, p. 60; Deleanu, 1996, p. 299; Platon, 2007, p. 28).

The newly formed supreme soviet began working on April 17, and on April 27 Mircea Snegur was chosen as the President of the Supreme Soviet Prezidium of the Moldavian SSR, being preferred to his contra candidate Petru Lucinschi. M. Snegur was elected with 196 *pro* votes and 164 *against* votes, compared to 160 *pro* votes for P. Lucinschi (Deleanu, 1996, p. 229; Drăganu, 1998, p. 43). In the same day the MP's voted for some changes in the Constitution regarding the national flag. Thus, the tricoloured flag (red, yellow, and blue) becomes one of the state symbols (Guceac, 2004, p. 307). During the plenary held on April 26, were proposals to rename the Legislative into the *Advice of the Country* ("Sfatul Țării"), in order to continue the historical traditions of 1918, but the suggestion was rejected, and the neutral name of "Parliament" was voted for.

Ion Hadârcă was elected to be the President of the Supreme Soviet Prezidium of the Moldavian SSR after Mircea Snegur was chosen as the President of the country. Consequently, the Constitution met with some changes on 6, 7, and 49 Articles on May 10, regarding the Constitutional rights for all political parties in the republic, and free citizen's rights to adhere to political parties. The Moldavian SSR Parliament legalized political pluralism as a necessary inner element of the state of law (Platon, 2007, pp. 30-31).

The Legislative accepted the Government with Mircea Druc as a leader on May 25, and on May 31 was ratified the Law regarding the Government of the Moldavian SSR. According to it, the Govern was recognized to be the supreme branch of state

administration, subordinate to the Supreme Soviet of the Moldavian SSR, and its head was named as *prime-minister* (Deleanu, 1996, pp. 229-230).

The following events were of major importance for the future situation of the country. On June 23, 1990, the Parliament adopted the Declaration of Sovereignty of the “Soviet Socialist Republic Moldova”, which, among other things, stipulated the supremacy of Moldovan laws over those of the Soviet Union. The Declaration proclaims that the state is an indivisible entity, and the frontiers can be changed only in concordance with the state itself with other sovereign states and people’s wish (Bădescu, 2010, pp. 18-19). On June 23, the Legislative voted for the national holiday “Our Language” (“Limba Noastră”) to be hold on August 31, the date when was adopted the Latin alphabet in 1989.

On June 25, was adopted the Decree regarding Sate Power. This was an act of great importance, as it developed people’s principles of sovereignty, and of State power separation. As a result, on September 3, 1990 the Supreme Soviet empowers the President of the country as public authority, ready to respect the State laws and sovereignty (Negru, 2002, pp. 94-97). Mircea Snegur was named to be the Head of the State (Muraru, Tănăsescu, 2009, p. 159).

Following the democracy path, the next step of the Parliament was the Decision regarding Moldova’s accession to the Universal Declaration of Human Rights. On November 2, was created the Moldovan Republican Guard, the basis of the future national army. The second day, on November 3, the Supreme Soviet adopted the new Moldovan Coat of Arms – the historycal Bull’s Head (Muraru, Tănăsescu, 2009, p. 159; Popa, 1998, pp. 2-3). On December 18, the Parliament aproves the Law regarding police, negating the old sovietic structures, and the new police configuration were out of the USSR Ministry of Home Affairs (Muraru, Tănăsescu, 2009, p. 159).

On May 23, 1991, the Parliament changed the name of the country from the *Moldavian Soviet Socialist Republic* into the *Republic of Moldova*, and the *Moldavian SSR Parliament* became the *Parliament of the Republic of Moldova*. On June 5, the Legislative adopted the Law regarding citizenship of the R. of Moldova, that forbid USSR citizenship in the country, so that only Moldovan citizenship was recognized. The democratic forces in the Moldovan Parliament were strong enough to prepere the final act – the Declaration of Independence, and the new Constituion as well (Muraru, Tănăsescu, 2009, p. 159).

The climax came on August 27, along with the Declaration of Independence. It stipulated that Republic of Moldova is a sovereign state, independent and democratic; free to decide upon its present and future with no foreign interference, in accordance with its people’s ideals and holly strivings within its historical and ethnic area of national becoming (Bădescu, 2010, pp. 53-54; Deleanu, 1996, pp. 235-246). The Independence was adopted by all the 227 present MPs. Along with

the recognition of Moldova's Independence and Sovereignty by the International Community, and UNO membership, on March 2, 1992, Republic of Moldova became a topic of the law of international relations. In these terms, the Moldovan Parliament followed on its path towards democratization of the country and looking for solutions to overpass the constitutional crisis.

During 1991-1993 the Parliament adopted about 50 decrees, laws, decisions, dispositions, and programs regarding democratization. The most important of all are considered to be the Law regarding political parties and other socio-political organizations (1991), Law regarding Religion (1992), Law regarding privatization, the Land Code of the Republic of Moldova, the Law regarding banking, the Law regarding income taxes, etc. (Muraru, Tănăsescu, 2009, p. 158). The implementation of the laws met difficulties because of the different point of views of the Legislative and of the Executive (Muraru, Tănăsescu, 2009, p. 160). The first Parliament self-dissolved in 1993, being unable to continue the process of lawmaking because of the political internal contradictions between different groups.

3. The Role of Parliament amongst the Public Authorities

The place occupied by the Legislative in a governing system indicates the democracy degree of the system itself.

The Constitution of the Republic of Moldova (Art. 60) qualifies the Parliament to be the people's representative supreme body, keeping the top place amongst the public authorities (Popa, 1998, p. 328).

We can asset the idea that a representative body of the national sovereignty must be elected by the elective body of the entire country, so that it can exercise its powers on the entire teritory. Thus, any other body of the public administration elected in different territorial-administrative units won't be considered representative body of the national sovereignty. That is why, according to Constitution, the only legislative body to frame into this category represents the Parliament, elected by people with rights to vote (Drăganu, 1998, pp. 92-93).

Undeniably sovereignty belongs to people, but the way people may implements this right wakes up doubt (Popa, 1998, p. 328). It would be perfect if people participated directly to the process of leading the society, lawmaking, and putting in practice laws, but the fact that nowadays it is impossible to create conditions for a direct democracy, there is a need to fiind a midway. In consequence, people delegate some elected reprezentatives to find out solutions for the society porblems in the name of the electors. This is their right and moral duty. The Constitution sets certain problems that can be handled by the MPs. Thus, we can state that the

Parliament is a public institution with the role to represent the people of a country and exercise powers enabled by the Constitution (Negru, 2002, p. 57).

The fact that the Parliament embodies the people's representative supreme body must not be interpreted as it would neglect the principle of separation of powers in a state, as if the other state bodies loose independence in action. In fact, everyone has to obey not to the Parliament, but to Law, as it represents people's wish. Indeed, all the bodies in a state follow the law, and have to respect it. The Parliament itself has to follow the law, and this explains that the Legislative body is positioned on the same rank as the other bodies in a state, such as the Government, the President, and the judicial body, that are empowered by the Constitution, and cannot be unpowered or replaced by the Parliament (Drăganu, 1998, p. 94).

According to the Constitution, the Parliament has the Legislative role (Art. 66), and besides that, has the role to control the Executive body. From this point of view the Parliament is considered to be the people's representative supreme body.

Referring to the *unique legislative authority* in a state, we consider the Parliament, with the role to adopt laws, that can be proposed by the Legislative itself, and by the President of the state or the Executive, as well. Also, the Constitution (Art 75) states that people have even higher legislative power than the Parliament, as the decisions adopted in a referendum are more important (Popa, 1998, p. 329).

4. The Structure of the Parliament

When speaking about forming a Parliament, the first problem appears to be the number of chambers to form it. The contemporary existing Parliaments are formed of a single chamber, or two or more chambers. The Parliaments formed of a single chamber are called unicameral, the ones formed of two chambers are called bicameral, and, respectively, the ones formed of more than two chambers are called multi-Chamber Parliaments. In general, the structure of a Parliament is determined by the state structure itself. The national (unitarian) criteria has an essential role in determining the option for parliamentary organization (Bădescu, 2010, p. 34).

As a rule, the unitary structure of a state supposes a unicameral Parliament. Nowadays mostly of the unitary countries have unicameral Parliaments, but there are such states with bicameral Parliaments, such as France, Italy, Romania, etc. (Negru, 2002, p. 58).

The Parliament of the Republic of Moldova is made up of one chamber, and the Constitution (Art. 60, p. 2) reserves a number of 101 deputies for it. The unicameral structure is required by the unitary character of the state, too.

No matter if the Legislative is unicameral or bicameral within a state; it represents a collegial body, where MPs make decisions during meetings. The Parliament represents the only one public authority to determine its own internal organization in a self contained manner (Cârnaț, 2010, p. 397). Thus, the Moldovan Constitution (Art. 64, Al. 1) says that the structure, organization and functioning of the Parliament are established by Regulations.

5. The Internal Organization of the Parliament

The internal organization of the Parliament represents the amount of committees (made up of deputies) created within the Legislative, in order to organise its activity. In order to a better functioning of the Parliament, it was necessary to arrange some smaller bodies within it, including the permanent Bureau, the parliamentary fractions, the parliamentary committees. Taking into account the specific peculiarities of each internal bodies and their responsibilities, they are classified into two categories:

- a) leadership and management bodies (President of the Parliament, vice-presidents, the permanent Bureau);
- b) internal formations (parliamentary groups, councils, the body of the Parliament itself) (Guceac, 2004, p. 332).

The leadership and management bodies:

1. *President of the Parliament* is elected by secret ballot by the majority of the MPs, for the duration of the Parliament's term of Office. One can be revoked anytime by secret ballot by one third of the MPs, or if there is a request from the parliamentary fraction to have recommended one for this position. The final decision regarding the invalidation of the President of the Parliament can be adopted by at least two thirds of the elected MPs, by secret ballot, as it states the Parliament Regulation (Solomon, 2002, pp. 92-93).

The President of the Parliament is not necessarily a politician with a special role, being similar to the other deputies. Additional functions of the President of the Parliament are of organizational manner; according to the Moldovan legislation, these are:

- governs and rules the Parliament's and permanent Bureau's work;
- ensures the accurate follow of the Parliament's Regulations and makes sure of the appropriate running of the meetings;
- signs laws and decisions adopted by the Legislative;
- names members of the parliamentary delegations, after consulting the presidents of parliamentary fractions and committees, taking into account the proportional representation of the fractions in the Legislative;

- represents the Parliament within the state and abroad it;
- hires and fires employees of the Legislative, according to legislation.

The President of the Parliament issues dispositions and orders, and can be replaced by vice-presidents in case of absence (Guceac, 2004, p. 333; Negru, 2002, p. 59).

2. *Vice-presidents of the Parliament* are elected by the majority of MPs (following the recommendation of the President of the Parliament) by open vote, but only consulting the parliamentary fractions. The number of vice-presidents is not mentioned neither in the Constitution, nor in the Regulation of the Parliament, and the Legislative decides on it. They can be revoked before terms by the majority of MPs, after the President of the Parliament has consulted the parliamentary fractions and asked for this.

Vice-presidents replace the President of the parliament if asked or in one's absence (Guceac, 2004, p. 334; Solomon, 2002, p. 93).

3. *The Permanent Bureau* represents the working body of the Parliament. When forming it, it is considered the political configuration of the Legislative, and the proportional representation of the parliamentary fractions. Members of the permanent Bureau are ex officio the President of the Parliament and vice-presidents. The number of Bureau members is established by the Legislative, as the parliamentary fractions recommend.

It is considered to have formed the permanent Bureau if at least three fourths of the members were named, as delegates of the parliamentary fractions. Parliamentary fractions vote for the two members of the Bureau to perform the function of secretaries.

The functions of the permanent Bureau are established by the Regulation of the Parliament (Art. 13) (Platon, 2007, pp. 301-303; Solomon, 2002, p. 93).

Internal formations

1. *Parliamentary groups or fractions* are bodies of the Legislative, made of deputies. Fractions result from gathering of the MPs with the same political orientation, or which have reached a consensus in order to come together in a common fraction. There must be at least five deputies, members of political parties or socio-political organizations. Unaffiliated parliamentarians are able to form fractions or adhere to the existing ones. It is necessary to mention that MPs are allowed to organize themselves into fractions in a term of 10 days after the Parliament was declared to be legally formed (Negru, 2002, pp. 61-62; Solomon, 2002, p. 93).

Parliamentary fractions have the rights to delegate representatives for the permanent Bureau, special committees, any other type of committees in the

Parliament; they can recommend projects regarding the working program of the Executive.

In order to work efficiently, fractions are ensured with rooms, required equipment, office suppliers, and are guaranteed with necessary services. Each fraction is helped in work by a secretariat. The permanent Bureau sets up the structure and the status of the secretariats (Solomon, 2002, p. 94).

2. *Parliamentary Committees* are bodies of the Legislative with a special role in preparing projects and office functions, especially the legislative and control ones. Assembling the Committees is determined by the number of problems to be solved, that seek for a detailed research, possible only in special created committees. In dependence of duration and functions of naming parliamentary committees, they can be divided into *permanent* and *short-term* committees.

Permanent committees represent the working bodies of the Legislative. They work on specialized domains all along the mandate. The number of such committees, the name and their degree of specialization differs from a constitutional system to another and from a Legislative to another, too.

Each permanent committee is ruled by a president (elected by the majority of MPs) and a secretary.

The basic functions of a permanent committee are to deliver law projects and to conduct parliamentary investigations if necessary. The Parliament Regulation states that sometimes the President of the Parliament or vice-presidents needs to set some work on committees, unless this regards the Legislative (Guceac, 2004, pp. 337-338; Negru, 2002, p. 60; Solomon, 2002, pp. 93-94).

Besides permanent committees, there can be organized *Special Commitees*, and *Commitees for investigation*.

According to the Parliament Regulation, *Special Commitees* are assembled in order to elaborate and deliver complex laws, or for another reason established in the decision of making such a committee. The laws elaborated by such committees are not reexamined by any other committees (Solomon, 2002, p. 99).

Commitees for investigation are of a major importance. Usually they investigate issues of plitical, legal, legislative or judicial manners. Such committees are formed if a parliamentary fraction or a group of at least 5% of the Legislative body asks for. The final decision of assembling such a committee is adopted by the majority of the present MPs. Anyone considered by the Committee for investigation to be cited for evidence as a witness is obliged to answer the request according to law (Platon, 2007, p. 301; Solomon, 2002, p. 95).

3. The *body of the Parliament* ensures organizational, informational and technical support for the Legislative, permanent Bureau, permanent committees, parliamentary fractions and deputies (Guceac, 2004, p. 339; Platon, 2007, p. 303).

6. The Functioning of the Moldovan Parliament

The way of functioning of the Moldovan Parliament is established by the Constitution and the Regulation of the Moldovan Legislative. The mandate is for 4 years, and can be extended by organic law only if war or catastrophe, as the Constitution sets.

In order to understand the operating mode of the Parliament, there is a need to understand terms like *mandate*, *sessions*, and *parliamentary meetings*, and how they are linked between.

The term of *mandate*, or *legislature*, means the period of time for any elected Parliament to exercise its powers. The newly elected Parliament must meet in no more than 30 days after the elections, if at least two thirds of the deputies were elected.

A *session* is the main form of activity of the Legislative. Sessions can be *ordinary*, *extraordinary*, and *special*. The Moldovan Constitution (Art. 67, Al. 1) sets that the Parliament meets in *ordinary sessions* twice a year. The first one begins in February and must end by the end of July, and the second ordinary session begins in September and must end by the end of December. The Constitution (Art. 67, Al. 2) sets that *extraordinary* or *special sessions* are organized only if necessary, besides the ordinary ones, in case the President of the State, president of the Parliament or a third of the elected deputies ask for. They have to ask the President of the Parliament in written form, naming the reason. If the request is accepted, the Parliament is convoked in a term of three days (Solomon, 2002, pp. 97-98).

The *Parliamentary meetings* are one-day sessions, representing the scheduled program (on days and hours of work) of the *plenary activity* in committees and fractions.

The Supreme Law (Art. 65) states that Parliamentary meetings are publicly opened. It is necessary to mention here that the President of the Parliament, any parliamentary fraction, or a group of at least 15% of the elected deputies have the right to ask for closed sessions. However, there is a need for such a decision to be approved by the majority of the present MPs.

Public sessions can be assisted by diplomats, parliamentary advocates, mass-media, and other people invited or authorized, in accordance with terms established by the permanent Bureau.

Deputies are obliged to attend sessions, signing on presence lists before sessions start. The absent MPs must let the permanent Bureau know about the reason for absence (Guceac, 2004, pp. 341-342; Solomon, 2002, pp. 99-100).

So, it can be said with good reason that Parliament represents vox populi to have elected the Legislative, as it realizes the public good and promotes national interest through its activity. In our country, the Parliament imposed itself into the political life of the state as a necessity of changing the existing political structures prior to Independence. At the same time, practical solutions for using its powers and attributes were reached when organizing this supreme people's representative institution. The Legislative must represent a counterbalance to the Executive branch, but only in legally established terms. Benjamin Constant considered that "When the Legislative authority covers everything, it can only harm..."

The place and role of the Parliament in the state system is a special one. For this reason it has to cover people's needs, to represent its interests, no matter if it has unicameral or bicameral structure. The Parliament stays to be the people's representative supreme body, as it succeeded to settle the legislative basis of the state, to give a path to the newly formed socio-economical relations, to boost the Executive activity, and to establish the principles of external affairs of the state, despite the fact that the Legislative body met hostile background for the moldovan national emancipation.

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